

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARINGS ON
RULE I, II, and III regarding bodies of) PROPOSED ADOPTION
water identified as contaminated with)
Eurasian watermilfoil)

TO: All Concerned Persons

1. On May 24, 2012 at 6:00 p.m. the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Region 4 office located at 4600 Giant Springs Road, Great Falls, Montana to consider the proposed adoption of the above-stated rules.

On May 24, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Headquarter office located at 1420 East 6th Avenue, Helena, Montana to consider the proposed adoption of the above-stated rules.

On May 29, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks office located at 215 West Aztec Drive, Lewistown, Montana to consider the proposed adoption of the above-stated rules.

On May 30, 2012 at 6:00 p.m. the department will hold a public hearing at the Fort Peck Fish Hatchery office located at 277 Highway 117, Fort Peck, Montana to consider the proposed adoption of the above-stated rules.

On May 31, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 office located at 352 I-94 Business Loop, Miles City, Montana to consider the proposed adoption of the above-stated rules.

On May 31, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 office located at 2300 Lake Elmo Drive, Billings, Montana to consider the proposed adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the department no later than May 11, 2012, to advise us of the nature of the accommodation that you need. Please contact Coleen Furthmyre, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail cfurthmyre@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I IDENTIFIED CONTAMINATED BODIES OF WATER

(1) The department will identify bodies of water within any Department of Agriculture designated Eurasian watermilfoil management area as contaminated with Eurasian watermilfoil.

(2) The department has identified the following bodies of water as contaminated with Eurasian watermilfoil:

- (a) Fort Peck Reservoir;
- (b) Fort Peck Dredge Cut Ponds;
- (c) Jefferson River;
- (d) Missouri River:
 - (i) from Fort Peck Dam to the North Dakota border;
 - (ii) from the confluence of the three forks of the Missouri River to the headwaters of Canyon Ferry Reservoir; and
- (e) Toston Reservoir.

AUTH: 80-7-1007, MCA

IMP: 80-7-1010, MCA

NEW RULE II BAIT RESTRICTIONS WITHIN IDENTIFIED CONTAMINATED BODIES OF WATER (1) The prohibitions of 80-7-1010, MCA apply to the bodies of water identified as contaminated in [NEW RULE I] except:

- (a) possession and taking of bait animals, dead or alive, is approved when allowed per fishing regulations;
- (b) transportation of aquatic bait animals is approved from contaminated bodies of water in water from a noncontaminated source when allowed per fishing regulations; and
- (c) transportation of live fish is approved from contaminated bodies of water in water from a noncontaminated source, when allowed per fishing regulations.

(2) Commercial bait fish seining is prohibited within any identified contaminated body of water listed in [NEW RULE I].

AUTH: 80-7-1007, MCA

IMP: 80-7-1010, MCA

NEW RULE III BODIES OF WATER NOT IDENTIFIED AS CONTAMINATED WITHIN AN EURASIAN WATERMILFOIL MANAGEMENT AREA (1) Any body of water not identified as contaminated within the boundaries of a Department of Agriculture designated Eurasian watermilfoil management area are subject to the regulations outlined in the current published fishing regulations.

Reasonable Necessity: On April 26, 2012, the Department of Agriculture proposed a rule designating two invasive species management areas due to the presence of Eurasian watermilfoil. Montana Code Annotated 80-7-1010 states, "In a body of water designated as an invasive species management area, taking from the water or possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is prohibited unless approved by the department of fish, wildlife, and parks." The Department of Fish, Wildlife and Parks is proposing rules in

order to allow bait within the Department of Agriculture's invasive species management areas and still minimize the further spread of Eurasian watermilfoil.

AUTH: 80-7-1007, MCA

IMP: 80-7-1010, MCA

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Eileen Ryce, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59620-0701; fax 406-444-4952; e-mail fwpexotics@mt.gov, and must be received no later than June 1, 2012.

5. Jessica Fitzpatrick, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearing.

6. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified on March 29, 2012 by phone message. Copies of the rule notice were electronically sent by e-mail and hard copies mailed on March 29, 2012.

/s/ Joe Maurier

Joe Maurier, Director

Department of Fish, Wildlife and Parks

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter

Rule Reviewer

Certified to the Secretary of State April 16, 2012